G. R. S. IX-5]

Previous references.

1921-22

Later references.

File No. 63-21

Serial Nos 1, 2, 5 & 6

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1, 2, 5 & 6

Part B for Feb 22

SUBJECT.

Enforcement of the terms of the agreement of Service executed by Mr J. C. Wrenkin, late Asst Surgeon, Mudjere.

WD 1868—GPB—16,926—23-7-21

15116

Office of the Senior Surgeon in Mysore,

No. C 741-6 Dated, Bangalore, 14th Nov. 21.

REVENUE SECRETARIAT
C.2820.
10 NOV 1921
LOCAL SELF GOVT. BRANCH.

From

Dr. H.B.Mylvaganam, F.R.C.S.,
Senior Surgeon with the Government
of His Highness the Maharaja of
Mysore, B a n g a l o r e.

Immediate

Ind 63-21-1.

To

The Secretary to Government of
His Higness the Maharaja of Mysore,
Revenue Department, Bangalore.

Sir,

Referring to Government Order No.G. 12571-2 Medl. 33-19-6 dated 29th November 1919, I have the honour to state that 1st Grade Assistant Surgeon - Mr. J.C. Noronha of Mudigere, who availed himself of ten days' Dasara Holidays granted to him with effect from the 10th October 1921, tendered his resignation on the 17th October on the ground that, since his joining the service he has been posted "to a poorly equipped Local Fund Dispensary where one cannot further one's experience".

In this office Memo No.C.741-1 dated 25th October 1921 he was asked if he was prepared to pay a penalty of Rs.1,000 in terms of the bond executed by him as he had not yet completed three years' service. In reply he says that he is not liable to pay the penalty as he feels justified in sending his resignation and relieving the State of the burden of a highly salaried officer at a dispensary where the stock of drugs had run short and he was losing his Medical and surgical experience, Owing to the delay on the part of the Superintendent, Government Medical Stores in complying with his indents.

As regards delay it is reported by the Superintendent of the Medical Stores that the last annual supply (based on 18 months requirements) had been despatched in July 1920 and was expected to last till December 1921, that an extra indent from Mudigere re-

9525

16165

G. R. S. III-2

General and Revenue Secretariat.

Red File No. 63 of 1921.

Serial No.

2873-41.
17.11.21.

The Govt. Adv. may be consulted.

Peel
15.11.21

Dr 21.11

N.C.N. 38
L. 21-11-21.

Forwarded, with compliments, to the Government Advocate in Mysore for favour of opinion.

By Order,

D. Subbarayappa,

21/11/21.

For Revenue Secy. to Govt.

Govt. Prob 6/11-11.
24.11.1921.

I gather from the file that Dr. Narahna was appointed on probation for two years, the appointment being considered a supernumerary one.

The printed form of the agreement in the file provides in the 2nd paragraph (here enter whether permanent, or temporary for the period). I take it that the particular agreement of Dr. Narahna comes under the latter clause. If so it might reasonably be contended that he is bound to serve only for the period for which he was appointed. The paragraph 3 also of the printed form in the period of service has this specified.

NOTE—Contn. sheet.

1520

G. R. S. III-2]

General and Revenue Secretariat. | File No. 63 of 1921-22

Serial No.

If my premises are right I am inclined to think that the period of service in this case is two years and not three.

Since the period of service is ascertained the terms of the bond are strict and if the employee terminates his service before the end of such period for any reason except as provided in the fourth condition of the third paragraph in the bond he will have to pay the penalty mentioned.

10. If, as stated in this case the period of service is two years, the note of the Revenue Secretary shows that Dr. Nagpuna has served very nearly two years, he might well be asked to complete the two years.

23.11.21.

Asstt. Govt.

'25820

G. R. S. III-2]

General and Revenue Secretariat.

Ref File No. 63 of 1921.22

Serial No.

1 Submitted with the opinion of the Govt. Advocate as called for in Memorandum 6 of the Secy.

25.11.21

For orders.

25/11/21

2 The premises assumed by the Govt. Advocate are, I am afraid, incorrect. If the officer has been appointed as a supernumerary on probation for two years, it only means not that he is appointed temporarily for two years, but that he is appointed permanently to the service subject only to his giving satisfaction during the probationary period and that the appointment is absorbed on the occurrence of a vacancy. The liability to the penalty appears therefore to be quite clear.

Rev. Secy.)

DCS
25/11/21.

3 Instead of drawing far-fetched and ingenious inferences, a simple solution of the question can be found by getting the "bond" executed by Mr Sarkar. He is bound (~~conditionally~~) to pay the penalty only if he has infringed the bond's terms, irrespective of the wording of the order appointing him temporarily and to begin with. We S.S. will be asked to send the bond if asked.

25-11-21

2nd Member)

P.S.O.

G. R. S. III-2]

General and Revenue Secretariat. File No. of 19

Serial No.	
3065-23C. 29.11.21	14 Yes. The bond may be obtained & continues. Rees 30.11.21
	15 Draft please DCS 30/11/21
	16 Draft submitted DCS 1.12.21
	17 Issue DCS 1/12/21.
	4/12/21
2	To The Senior Surgeon No C 3266 dt 6.12.1921 Regrets to forward the bond executed by Mr Noronha.
3.	From the Senior Surgeon. No. C 685-12 dated the 3rd January forwards, as desired, the original bond executed by Mr J. C. Noronha, Ex Asst Surgeon, and solicits instructions as to the further action to be taken in the matter as the whereabouts of the Ex-Sub Asst Surgeon are not known. Submitted for orders with reference

30396

G. R. S. III-2]

General and Revenue Secretariat. | Medl File No. 63 of 1921.

Serial No.

L 1922

to paragraphs 13 and 14 of the office note above.

C.B. 7/1/22

TSR 9/1

1) There appears to be no doubt whatever regarding the liability of the individual to the penalty prescribed in the Bond. If necessary, the opinion of the present Govt. Advocate may be taken. In any ~~case~~ case, even if the liability is established, no immediate action could be taken as the individual is reported to have left India and his whereabouts are not known.

Revsecy) 9/1/22

11-1-22

REVENUE & [illegible] 11.1.22 10 JAN 1922 LOCAL SELF GOVT. BRANCH.

11) Forwarded with compliments by the Govt. Advocate in favour of an expression of his opinion.

B. O.

Chenkantaraj

9.1.22 Revsecy

No. 4983/21-M 9/12-1-22

The person concerned is liable under the clear terms of the bond (vide section 74 Indian Contract Act). But as the party

NOTE—Contn. sheet.

G. R. S. III-2

General and Revenue Secretariat.

Med File No. 63. of 1921.

Serial No.

appears to have already left in Army service we are unlikely to get a decree for Rs 1000/- The amount to be awarded as compensation by way of penalty depends upon the circumstances of each case and on the discretion of the Court. We have another remedy legally enforceable against the person concerned, the amount mentioned in the bond [illegible] Government [illegible]

27- The Senior Surgeon may be authorised to enforce the terms of the bond as soon as the whereabouts of the individual are known.

A

Rev Secy. Bnd-holder has left-in-area DCS 17/1/22

B 2 yrs' Service.

2/1

2nd member

A. approved. B. This will be taken into calculation when compensation is assessed.

26.1.22

28/1

Draft please

DCS 28/1/22

NOTE—Contn. sheet.

G. R. S. III-2]

3 | 3

General and Revenue Secretariat. | Med File No. 63 of 19 24.

Serial No.	
	Dft Subd for appl
	Issue
6	To
	The Senior Surgeon
	No L4309 D/ 3-2-22
	Request to arrange for the terms of the bond being enforced as soon as the whereabouts of the individual are known.
	C. The Govt Advocate No L4311 D/ 8/2
	The Comptroller No L4310 D/ 8/2
	Dft Copy of the above.

NOTE—Contn. sheet.

MYSORE MEDICAL DEPARTMENT.

In reply quote
No. C.685-12
Rec 3.

OFFICE OF THE SENIOR SURGEON,
MYSORE GOVERNMENT,

Dated Bangalore, the 3rd Jany. *192* 2

5-12

Encl.

Telegraphic Address :—29730
" SENORGEN "

Med 63-21-5

REVENUE & JUDICIAL SECRETARIAT
3733
6 JAN 1922
LOCAL GOVT.
SECTION.

FROM

REV. SEC.
6 - JAN 1922

The Senior Surgeon with the Government of
H. H. the Maharaja of Mysore,
Bangalore.

To

The Secretary to Government,
Revenue Department,
Bangalore.

SIR,

Referring to your letter No.L.3266/Med.63-21-2, dated 6th December 1921, I have the honour to forward herewith, in original, the bond executed by Mr.J.C.Noronh together with copies of correspondence carried on with him in connection with his resignation. A copy of the registered notice sent to him and returned undelivered by the postal authorities saying that he left India is also herein enclosed. As his whereabouts are not

I. Letter dated 17th October 1921, from Mr. J. C. Noronha, Asst: Surgeon, Mudigere, to the Senior Surgeon, Camp. Mysore.

I have the honour to bring to your kind notice that when I joined the Medical Service I expected facilities for medical and surgical practice taking into consideration my practical experience at various hospitals in England.

2. I find that I have, since joining, been posted at a poorly equipped local fund dispensary where even you will acknowledge one cannot further one's experience.

3. I therefore tender my resignation for your kind acceptance.

****

II. Letter No. C. 741-1, dated 25th October 1921, from the Senior Surgeon, to Mr. J. C. Noronha, Mudigere.

Referring to his letter of the 17th instant, tendering resignation of his appointment, Mr. J. C. Noronha is requested to inform if he is prepared to pay the penalty in terms of his agreement. (Rs. 1000).

2. On receipt ofreply, his resignation will be submitted to Government.

****

"COPIES"

Offg. Senior Surgeon.

P. T. O.

111. (Encl.1 overleaf)

Bangalore,

2/4th November 1921

To

The Senior Surgeon in Mysore,

Bangalore.

Sir,

In reply to your memo No.C.741- dated 25th Oct.1921, I have the honour to state that I am surprised at your inquiry whether I am prepared to pay the penalty of Rs.1000/-.

2. When I was transferred to Mudigere last year, I faced the difficulties and humiliations of the post. But when I was reposted to Mudigere from Chickamagalur this year, I went there as you assured me it would be only temporary.

3. On July 24, I wrote to the Superintendent, Medical Stores, ~~through~~ through the District Medical Officer, Chikamagalur (copy attached) that a number of important drugs were out of stock and to despatch the annual supply early.

4. On August 28th, I wrote to you for a transfer as I was doing practically nothing at Mudigere for want of every day drugs and appliances.

5. On September 25, I personally saw you at Bangalore and explained to you my helplessness at Mudigere for want of material and also gave you a copy of the docket I wrote to the Superintendent, Medical Stores. I also informed you that I would like a transfer to any place, that it did not matter what place it was so long as I could do some useful work. My request was not granted and as I felt I was fast losing m y practical medical and surgical experience, which to ~~m~~ me is more important than the mere holding of an useless post, I felt justified in sending in my resignation and thus relieving the state the burden of a highly salaried officer at a dispensary where even epsom salts was not in stock.

****

"C O P Y"

H.B. Mysorgar
Offg. Senior Surgeon P.T.O.

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to 3733

General and Revenue Secretariat
(L.S.G.)
, *the* *191* .

Date of issue 3-2-22

Signed by Mr. D. C. S.

Section Med
File No. 63-21
Serial No. 6.

No. L. 4309/Enc one

To The Senior Surgeon
Sir Mysore.

Sir,

With reference to the correspondence ending with your letter no C 685-12 dated the 5th January 1922 in the matter of the enforcement of the terms of the agreement of service executed by Mrs J. C. Warden

over.